

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

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|---------------------------|---|--------------------|
| LOUIS DOUGLAS CRAFT, Jr., |) | |
| |) | |
| Petitioner, |) | |
| vs. |) | NO. CIV-10-1230-HE |
| |) | |
| JUSTIN JONES, Director, |) | |
| |) | |
| Respondent. |) | |

ORDER

Petitioner Louis Douglas Craft, Jr., a state prisoner appearing *pro se*, filed this action under 28 U.S.C. § 2254 seeking habeas relief. Consistent with 28 U.S.C. §636(b)(1)(B) and (C), the matter was referred for initial proceedings to Magistrate Judge Valerie K. Couch. She has recommended that a motion to dismiss filed by respondent be granted and the petition be dismissed as being untimely pursuant to 28 U.S.C. § 2244(d).

Petitioner filed an objection essentially arguing that the limitations period is subject to equitable tolling because he is actually innocent of the offense.¹ The court has conducted a de novo review and agrees with the magistrate judge that petitioner has not shown he diligently pursued his claims and has not demonstrated actual innocence.

Accordingly, the court adopts Magistrate Judge Couch's Report and Recommendation, grants respondent's motion to dismiss and dismisses the habeas petition. 28 U.S.C. § 2244(d). A certificate of appealability is denied, as the court has found petitioner has not made "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).

¹*Petitioner makes other arguments, but none pertain to the issue of whether the one year limitations period should be equitably tolled.*

IT IS SO ORDERED.

Dated this 2nd day of May, 2011.



JOE HEATON
UNITED STATES DISTRICT JUDGE